IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 23093 of 2004**

Between:

Dantu Kuramgeswara Venkata Kumara Ratnakar, S/o. D.V.S.R. Prasad,
B.Ed. Asst., Yadava High School, Old Guntur, Guntur District.

**..... PETITIONER**

AND

1 State of A.P., rep. by its Secretary to Government,
School Education Department, Secretariat, Hyderabad.
2 The Director of School Education, A.P., Hyderabad.
3 The Regional Joint Director of School Education, Guntur.
4 Yadava High School, Old Guntur, Guntur District,
Rep. by its Secretary and Correspondent.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or order more particularly one in the nature of writ of Mandamus declaring the action of the respondents in reducing the pay of the petitioner by showing G.O.Ms.No. 100 dt. 16.8.2001 as illegal, arbitrary, violative of Principles of Natural Justice besides hit the Doctrine of Equal Pay for Equal Work and Consequently direct the respondents to pay the regular salary attachable to the post of B.Ed. Assistant
( Maths & P.S.).

**Counsel for the Petitioner: MR.N.GURU GOPAL**

**Counsel for the Respondents 1 to 3 : GP FOR SCHOOL EDUCATION**

**Counsel for the Respondent No.4: None appeared.**

**The Court made the following :**

## ORDER:

Challenging the action of the respondents in reducing the pay of the petitioner from the regular pay attached to the post of School Assistant as per the G.O. Ms. No.100, Education (PS-1) Department, dated 16.08.2001, the present Writ Petition is filed.

It is the case of the petitioner that he was appointed as B.Ed. Assistant with the fourth respondent-school in an unaided sanctioned post after due selection by the committee which was approved by the third respondent as per order dated 26.03.2001 and he was paid regular scale of pay attached to the post. When a sanctioned aided post fell vacant, the third respondent accorded permission to absorb the petitioner into it and accordingly, he was absorbed into the aided post. But while absorbing so, the respondents imposed condition that the petitioner should draw Rs.1,500/- per month for a period of two years as per the norms issued in G.O.Ms. No.100, dated 16.08.2001. Hence, the Writ Petition.

Respondents 1 to 3 filed counter affidavit admitting absorption of the petitioner into aided vacancy by the fourth respondent with the permission of the third respondent and contended that they do not know payment of regular salary to petitioner in the unaided post and only as per the norms in G.O. Ms. No.100, the petitioner was permitted to be absorbed into aided post. So, the petitioner must necessarily undergo apprenticeship period of two years though he was absorbed from the unaided post. Hence, the Writ Petition is not maintainable and is liable to be dismissed.

Learned counsel for the Petitioner contended that the petitioner was appointed in the year 2001 in an unaided sanctioned post with the fourth respondent-school in pursuance of selection conducted by the selection committee and the same was approved by the third respondent vide proceedings dated 26.03.2001 and thereafter, he was paid regular pay scale attached to the post of School Assistant

and therefore, the pay of the petitioner has to be protected after absorption into aided vacancy, and by virtue of G.O.Ms. No.100, Education (PS-1) Department, dated 16.08.2001, the consolidated amount can not be fixed which is far less than the pay of the petitioner.

The learned Government Pleader for School Education vehemently contended that by virtue of Rule 12 (4) of the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools under private managements) Rules, 1993, (for short, “the Rules, 1993”) amended as per G.O. Ms. No.180, Education (PS-I) Department, dated 29.12.2000, every selected candidate for the aided post of teachers shall be initially appointed as an apprentice for a period of four years, which was later reduced to 2 years, and during the period of apprenticeship, he will be paid consolidated amount as may be fixed by the Government viz. for the post of School Assistant, Rs.1,500/- per month for the first year and Rs. 1,800/- per month for the second year, as per the G.O. Ms. No.100, dated 16.08.2001, and hence, there are no grounds to interfere with the orders.

After hearing both the sides, it is seen that the factual matrix is not seriously disputed before this Court. In pursuance of due selection, the petitioner was appointed as B.Ed. Assistant in an unaided sanctioned post in the year 2001 in fourth respondent school. The appointment of the petitioner was approved by the third respondent viz. the Regional Joint Director of School Education, vide proceedings no. 836/B1/2001, dated 26.03.2001. As a matter of fact, he was paid regular pay scale attached to the post of School Assistant. In the year 2004, when an aided post of B.Ed. Assistant had fallen vacant consequent on the promotion of the person who was working in that post, the third respondent accorded permission to the fourth respondent vide proceedings dated 21.06.2004, to fill up

the said vacancy by duly absorbing the petitioner. Accordingly, the petitioner was absorbed and at the time of absorption, a condition was put that he should draw Rs.1,500/- per month for a period of two years as per the norms in G.O. Ms. No.100.

The learned counsel for the petitioner contends that pay of the petitioner can not be fixed as per the norms in G.O. Ms. No.100 as he is not a direct recruitee but has been working in the said post, though unaided, and question of petitioner undergoing the apprenticeship does not arise.

The learned Government Pleader for School Education placed strong reliance on the amended Rule 12(4) of the Rules, 1993, as per the G.O. Ms. No.180, dated 29.12.2000, which reads as follows:

> "(4-a) every selected candidate for the aided post of teachers shall be initially appointed as an apprentice for a period of four years from the date of joining duty. He or she work under general supervision of the Headmaster / Headmistress as the case may be. During the period of apprenticeship, he or she shall be paid a monthly stipend at a rate to be prescribed from time to time by the Government. On satisfactory completion of the period of apprenticeship he or she shall be appointed to a regular post with a regular scale of pay. The apprenticeship period shall count for probation."

A plain reading of the above provision makes it clear that the above Rules apply for the aided post of teachers and they will be initially appointed as apprentice for the specified period. So, the amended provision also applies to the persons who were selected for the first time. But, here is the case where the petitioner was already selected in the year 2001 by duly constituted selection committee, though in the unaided post. Since the petitioner has been working in unaided post, question of undergoing apprenticeship does not arise.

Undergoing apprenticeship for a period of two years as contemplated under the G.O. will squarely apply to newly selected persons who were appointed in the aided posts of teachers and the G.O. can not be made applicable to the persons who are already working, though in the unaided post. The appointment of the petitioner in the unaided post was approved by the third respondent and his pay was fixed in the pay scale attached to the post of School Assistant. Similar issue has been decided by this Court on 19.08.2004, which came up for consideration in Writ Petition No. 17583 of 2003, wherein this Court held that absorption of petitioners therein in aided posts shall be treated as not on apprenticeship and they shall be paid scale of pay attached to the post in which they were absorbed.

Following the same, the Writ Petition is allowed directing the respondents to fix regular pay scale attached to the post of School Assistant from the date of petitioner's absorption into aided post. No costs.

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11.07.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on

The eleventh day of July two thousand and five.

…Registrar

Copy to:

1 The Secretary to Government, School Education Department, State of A.P., Secretariat, Hyderabad.
2 The Director of School Education, A.P., Hyderabad.
3 The Regional Joint Director of School Education, Guntur.
4 The Secretary and Correspondent, Yadava High School, Old Guntur, Guntur District,
5 Two CCs to the G.P. for School Education, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

6 Two CD copies.